



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

**Community Empowerment and Economic
Revitalization Committee**

Tuesday, March 14, 2006
2:00 PM
Commission Chamber

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Commission Auditor

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**Community Empowerment & Economic Revitalization Committee
Meeting Agenda**

Tuesday, March 14, 2006

Written analyses for the below listed items are attached for your consideration in this Legislative Analysis.

Item Number(s)

2(B)

Additional information for the below listed item is attached for your consideration in this Legislative Analysis.

4(B)

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Esq., Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analyses prepared by:
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LEGISLATIVE ANALYSIS

ORDINANCE REQUIRING EMERGENCY RESPONSE PLAN FROM GAS STATIONS DURING A LOCAL STATE OF EMERGENCY.

Chairman Joe A. Martinez, and Commissioners Jose “Pepe” Diaz, Audrey Edmonson, Carlos A. Gimenez, Sally A. Heyman, Barbara J. Jordan, Dennis C. Moss, Dorrin D. Rolle, Rebeca Sosa, and Sen. Javier D. Souto.

I. SUMMARY

This ordinance creates Section 8B-16 in the County Code requiring gas station owners in Miami-Dade County to prepare an emergency plan for the uninterrupted operation of their facilities in the event of a local state of emergency. Gas stations must provide for the sale of gasoline to the general public within 24 hours after a declared emergency.

This item also requires gas station owners develop an emergency response plan by June 1, which specifies:

- An alternate source of power, during periods of electrical outage.
- A maintenance plan for the up-keep of any new equipment related to the alternative power supply.
- A plan to recall essential gas station personnel in the event of an emergency.
- A schedule showing that the equipment for the alternate power supply will be purchased/leased and installed prior to June 1, 2006.
- If the alternate power source requires construction or a building permit, the permit must be obtained prior to March 1, 2006 and a certificate of occupancy must be obtained prior to June 1, 2006.
- If the alternate power source requires the delivery of generators from off-site facilities, gas station owners must supply evidence of the availability of the generators.
- Gas station owners must file their respective Gas Station Emergency Plans with the director of Emergency Management no later than February 1, 2006.

This ordinance also amends Section 8CC of the Code to include a \$500 civil penalty for failure to abide by the Section 8B-16.

II. PRESENT SITUATION

Currently there is no provision in the County Code which mandates Gas Stations to open after a declared local emergency. Following the recent hurricanes, gas stations in affected areas opened sporadically and without standard hours due to power outages and staff shortages.

However, according to Section 8B-7 of the County Code, the “Manager is authorized to take special action and put in place all appropriate regulations that will protect the lives and property of the citizens of Miami-Dade County,” and could also issue an “order

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requiring the discontinuance of the sale, distribution or giving away of gasoline” in inappropriate containers.

III. POLICY CHANGE AND IMPLICATION

This item would amend Section 8B of the County Code relating to Emergency Management to include a provision concerning the operation of gas stations after a declared local emergency.

This ordinance also amends Section 8CC of the Code to include a \$500 civil penalty for failure to abide by the Section 8B-16.

The State Legislature is taking up a measure which would provide tax breaks to gas stations for the purchase of generators. A more stringent bill that would require gas station owners equip their businesses with generators has lost support among law-makers who cite the potential financial burden on gas station owners. *See attachment, “Lawmakers change tune on gas-pump generators,” Miami Herald, March 9, 2006.*

IV. ECONOMIC IMPACT

The economic impact of this ordinance is not immediately known.

The office of Emergency Management may be required to hire additional staff to review the plans of the various gas stations in the County, and perform site checks that gas stations in compliance with the Code.

V. COMMENTS AND QUESTIONS

Gas station owners are required to submit their emergency response plans by February 1, 2006, and must have their gas stations fully equipped with their alternative power supplies by June 1, 2006. Though the June 1, date coincides with the start of hurricane season, this could cause undue financial burden on gas stations which have to procure emergency generators.

The legislation being considered by the State Legislature includes a provision which preempts local governments from enacting laws governing the operation of gas stations during a state of emergency.

Posted on Thu, Mar. 09, 2006

HURRICANE PREPAREDNESS

Lawmakers change tune on gas-pump generators

Shying away from forcing gas stations to own generators, lawmakers are ready to give tax breaks to rewire gas stations to make them generator-ready.

BY MARC CAPUTO

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TALLAHASSEE - Five months after Hurricane Wilma blew through, the political will to require power generators at nearly every gas station has lost its spark in the Legislature.

State lawmakers said Wednesday it was too expensive, too risky and, according to some, too liberal a notion to force so many stations to invest in a product that costs up to \$50,000 -- and that could be ruined along with the station during a hurricane.

Instead, lawmakers want to offer tax breaks for owners to re-wire their stations and make them ready for a generator trucked from a safe spot. Owners of 10 gas stations in a single county would be required to have one generator, and port operators and fuel distributors must have generators capable of pumping fuel for three days. Maximum tax credit: \$15,000 per location.

Some Florida cities -- particularly Pembroke Pines and Hallandale Beach -- opposed the gas station bill because it didn't go far enough and prevents local governments from enacting tougher rules. Hallandale Beach, for instance, passed a gas-station generator law in the days after Wilma when Republican and Democratic lawmakers made big promises.

"This makes requirements for wiring at gas stations," said Lawrence J. Smith, a former Democratic congressman and a lobbyist for Hallandale and Pembroke Pines. ``There's no mandate they be open. There's no mandate they pump gas. How can you have a bill that doesn't mandate you go into operation?"

PROMPT RESPONSE

The statement prompted a swift response from Sen. Alex Diaz de la Portilla, a Miami Republican.

"A free market will dictate that," Diaz de la Portilla said, adding that he doesn't believe government should interfere with business. Diaz de la Portilla co-sponsored the bill that passed his domestic security committee Wednesday. A similar bill passed another House committee, as a number of lawmakers kvetched that they didn't like telling private business what to do, but didn't want to give tax handouts, either.

All the while, Smith raised the same objections: Too few people will get too little gas without enough generators.

The response: People should stay home, said David Mica, executive director of the Florida Petroleum Council.

"This is not going to mean that we automatically have gas and that you should immediately go out on the road," Mica said. Instead, he said, the bill seeks to make a supply of gas available for an emergency situation.

REQUIREMENTS

According to a staff analysis, the bill requires:

- Fuel distributors, such as those in Port Everglades, which supplies 40 percent of Florida's fuel, to have generators by Dec. 31 that can be turned on 36 hours after a storm and can operate for three days.
- Generator-ready rewiring at gas stations that are a half-mile from state and federal highways or evacuation routes. Cost to rewire: up to \$8,000.
- Gas stations built or significantly renovated after July 1 to be generator ready.
- Rewiring at stations with 16 or more pumps in large counties, such as Miami-Dade and Broward, and at stations with eight or more pumps in counties such as Monroe by Dec. 31. Cost to rewire a 10-pump station and equip it with a generator: About \$65,000.

'LUCRATIVE BUSINESS'

"So this is a very lucrative new business?" asked Sen. Frederica Wilson, a Miami Democrat. A lobbyist responded that it was profitable for electrical contractors, but that people ``can't just have your neighbor do it."

Diaz de la Portilla laughed: ``Obviously he doesn't live in Miami."

Later, the committee unanimously approved another Diaz de la Portilla hurricane-related bill, requiring 75-foot-tall condominiums to have generator-powered elevators. But he said it would be changed to provide subsidies to those buildings.

Joyce Goodman-Guenther, an attorney representing about 50 condominiums, said most new condominiums have generator-powered elevators and that no one opposes the idea. They just don't want to get stuck with a hefty new bill.

"If suddenly they hear they need to get something done and there's no resource to accomplish it, they'll panic," she said.

Herald staff writer Gary Fineout contributed to this story.

ADDITIONAL INFORMATION

<u>Item#</u>	<u>Subject Matter</u>	<u>Comments/Questions</u>
4(B)	HOME/SURTAX funding to Country Club Villas, Ltd.	<p>This item essentially is swapping \$750,000 Surtax funding for \$750,000 HOME funding to complete this financial commitment.</p> <p>HOME funding in the amount of \$750,000 was originally allocated to this developer on October 31, 1996. However, HOME funding guidelines could not be met as only 11 units out of 216 would have remained affordable.</p> <p>A previous agreement reducing the number of affordable units was rescinded because it did not have the necessary Board approval.</p> <p>The \$750,000 Surtax funds will complete this financial commitment.</p> <p><u>This project is now complete with all 216 affordable units.</u></p>